


Nonconnected PAC Operations, Part I



Wednesday, November 13, 2013


11:00 a.m. – 12:30 p.m.

 Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

Objectives

- ▣ Identify types of Nonconnected PACs and review basic characteristics
- ▣ Discuss fundraising rules
- ▣ Describe methods of supporting federal candidates
- ▣ Highlight key rules on travel and lobbyist bundling

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REGISTRATION AND ORGANIZATION

I. Types of Nonconnected Committees

What do you want to do?

- Make contributions to federal candidates
- Contribute to state and local candidates
- Make independent expenditures supporting or opposing federal candidates

What type of PAC?

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A. Different Types of Nonconnected Committees

The type you form depends on what you want to do:

What do you want to do?

- ☒ Make contributions to federal candidates
- ☐ Contribute to state and local candidates
- ☐ Make independent expenditures supporting or opposing federal candidates

Nonconnected PAC



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1. “I want to make contributions to federal candidates.”

Form a: Traditional Nonconnected PAC.

Examples:

- A federal PAC without a corporate/labor sponsor that makes contributions to federal candidates.
- A federal PAC sponsored by a partnership or an LLC (or any other type of unincorporated business entity) that makes contributions to federal candidates.
- A leadership PAC formed by a candidate or officeholder.

What do you want to do?

- ☐ Make contributions to federal candidates
- ☒ Contribute to state and local candidates
- ☐ Make independent expenditures supporting or opposing federal candidates

Nonfederal PAC

2. “I want to make contributions to state and local candidates.”

Form a: Nonfederal PAC. Alternatively, use your federal PAC as long as state law permits, but be aware you must only accept federally permissible funds into that PAC, even though it is active on a state level. It may also have to file reports on a state level.

What do you want to do?

- ☒ Make contributions to federal candidates
- ☒ Contribute to state and local candidates
- ☐ Make independent expenditures supporting or opposing federal candidates

Nonconnected PAC

OR

Nonconnected PAC

&

Nonfederal PAC



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Nonconnected PAC Part 1

3. “I want to make contributions to both federal and nonfederal candidates.”

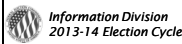
Form a: Traditional Nonconnected PAC and either:

- Use that federal PAC to make contributions on both federal and state levels (and subject to both sets of laws); or
- Also form a nonfederal PAC for making contributions on a state and local level (subject to state laws).

What do you want to do?

- ☐ Make contributions to federal candidates
- ☐ Contribute to state and local candidates
- ☒ Make independent expenditures supporting or opposing federal candidates

Super PAC



Nonconnected PAC Part 1

4. “I want to make independent expenditures to support (and/or oppose) federal candidates.”

Form a: Super PAC, also known as Independent Expenditure-Only Committees (Super PACs):

Super PACs are nonconnected committees that have agreed to forgo making contributions to candidates; as a result, they may solicit and accept unlimited contributions from corporations, labor organizations, individuals and political committees for the purpose of making independent expenditures to support or oppose federal candidates.

See the following AOs and Court Cases:

- 2011-12 (Majority PAC)
- 2011-11 (Colbert)
- 2010-11 (Commonsense Ten)
- 2010-09 (Club for Growth)
- *Speech Now v. FEC*; and
- *Citizens United v. FEC*

More information available at:

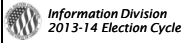
<http://www.fec.gov/law/recentdevelopments.shtml#IECommittees>

But what if you want to make both contributions and expenditures?

What do you want to do?

- ☒ Make contributions to federal candidates
- ☐ Contribute to state and local candidates
- ☒ Make independent expenditures supporting or opposing federal candidates

Hybrid PAC

Nonconnected PAC Part 1

5. “I want to make both contributions and independent expenditures in connection with federal elections”

Form a: Hybrid PAC. Alternatively, you may use a traditional nonconnected federal PAC (see page 3), but be aware it may not use funds raised outside normal federal limitations and source restrictions.

Hybrid PACs: *Carey v. FEC*

On August 19, 2011, the U.S. District Court for the District of Columbia declared the contribution limits in 2 U.S.C. §441a(a)(1)(C) and (3) unconstitutional with regard to contributions received to make independent expenditures, as long as a nonconnected PAC uses separate bank accounts to:

- Accept unlimited contributions to finance independent expenditures (a “non-contribution account”; and
- Accept FECA-limited contributions to be used to make contributions (a “federal account”).

What do you want to do?

- ☒ Make contributions to federal candidates
- ☒ Contribute to state and local candidates
- ☒ Make independent expenditures supporting or opposing federal candidates

Hybrid PAC

OR

Hybrid PAC
&
Nonfederal PAC

6. **“I want to do it all! Make contributions and independent expenditures to/ on behalf of or against both state and federal candidates”**

Form a: Hybrid PAC. Although, in some cases, you may need to also form a separate nonfederal PAC in order to comply with applicable state laws when active in nonfederal elections.

Alternatively, form a traditional nonconnected federal PAC, but be aware that such a PAC is subject to federal contribution limits and prohibitions.

Bank Accounts

- ▶ Federal Account
- ▶ Nonfederal Account
- ▶ Non-contribution Account

II. Bank Accounts for Nonconnected Committees

Bank Accounts

- ▼ Federal Account
 - Funds subject to limits and prohibitions of FECA
 - May be spent for contributions and expenditures

Nonconnected PAC

Hybrid PAC

1. Federal Account

Used by: Nonconnected PACs and Hybrid PACs

Purpose: Making contributions to federal PACs. May also be used for independent expenditures, and if state law permits, nonfederal contributions.

Bank Accounts

▼ Federal Account Deposits

- Funds must be expressly designated or solicited for use in connection with federal elections; or
- Contributors must be informed that contribution is subject to federal limits and prohibitions.

Conditions: All funds deposited are subject to federal limitations and restrictions (i.e., must be federally permissible).

- Funds must be **expressly designated or solicited** for use in connection with federal elections; **or**
- **Contributors must be informed** that contribution is subject to federal limits and prohibitions.

Bank Accounts

- ▶ Federal Account
- ▶ **Nonfederal Account**
- ▶ Non-contribution Account

Bank Accounts

- ▼ Nonfederal Account
 - Funds subject to state law
 - May be spent for nonfederal activity

Nonfederal PAC

2. Nonfederal Account

Used by: All types of nonconnected PACs

Purpose: Activity that is in connection with state and local elections

Conditions:

- Does not register with FEC; activities regulated by state law.
- If used for federal activity, subject to funding restrictions and registration threshold of \$1,000.
- May not transfer funds into an affiliated federal PAC except for allocable share of allocable activity (covered later).

Bank Accounts

- ▶ Federal Account
- ▶ Nonfederal Account
- ▶ **Non-contribution Account**

Bank Accounts

▼ Non-contribution Account

- Unlimited funds, including corporate/labor money
- May be spent for independent expenditures

Super PAC

Hybrid PAC

3. Non-Contribution Account

Used by: Super PAC; Hybrid PAC

Purpose: Used to make independent expenditures (communications that contain express advocacy for or against a clearly identified candidate or party and that are not coordinated with any candidate or candidate's committee – more on this in part two).

Conditions:

- Contributions into account are not limited in terms of amount or source.
- May not be used to make contributions.

Nonconnected PACs


Nonconnected Partnership Leadership

Hybrid

Super



* Nonfederal PACs are subject to applicable state laws.



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Remember:

- Type of PAC you form and the restrictions it is subject to depends on your intentions.
- A PAC formed for making contributions to federal candidates and committees is subject to more FEC restrictions than one that is formed for making solely independent expenditures.

Committee Registration

FEC FORM 1	STATEMENT OF ORGANIZATION	
<div style="display: flex; justify-content: space-between;"><div>1. NAME OF COMMITTEE (in full) <input type="checkbox"/></div><div>12FE4M5</div></div>		
<div style="background-color: #333; color: white; padding: 10px; font-size: 1.2em; font-weight: bold;">Nonconnected PACs have a \$1,000 registration threshold</div>		
<div style="display: flex; justify-content: space-between;"><div>ADDRESS (number and street)</div><div>CITY</div><div>STATE</div><div>ZIP CODE</div></div>		
COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)		
<div style="display: flex; align-items: center;"><input type="checkbox"/> (Check if address is changed)</div> <div style="border-bottom: 1px solid black; width: 100%;"></div>		
COMMITTEE'S WEB PAGE ADDRESS (URL)		
<div style="display: flex; align-items: center;"><input type="checkbox"/> (Check if address is changed)</div> <div style="border-bottom: 1px solid black; width: 100%;"></div>		

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III. Registering a Nonconnected Committee

- A. \$1,000 Registration Threshold (11 CFR 100.5(a))**
All types of nonconnected PACs must register with the FEC once committee has raised or spent more than \$1,000 in a calendar year in connection with federal elections.

Committee Registration

FEC Form 1 (Revised 02/2009) Page 2

5. TYPE OF COMMITTEE
Candidate Committee:

(a) ☐ This committee is a principal campaign committee. (Complete the candidate information below.)

(b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate _____

Candidate Party Affiliation _____ Office Sought: ☐ House ☐ Senate ☐ President ☐ State _____

Political Action Committee (PAC):

(e) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:


<input type="checkbox"/> Corporation	<input type="checkbox"/> Corporation w/o Capital Stock	<input type="checkbox"/> Labor Organization
<input type="checkbox"/> Membership Organization	<input type="checkbox"/> Trade Association	<input type="checkbox"/> Cooperative
<input type="checkbox"/> In addition, this committee is a Lobbyist/Registrant PAC.		

(f) ☒ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)

☐ In addition, this committee is a Lobbyist/Registrant PAC.

☐ In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

If a nonconnected committee is a Leadership PAC, identify sponsor on line 6.


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B. Use FEC Form 1 to Register

All types of nonconnected committees must file Statement of Organization (FEC Form 1), checking box F to indicate the type of committee on Line 5, **within 10 days** of triggering registration by raising or spending more than \$1,000. 11 CFR 102.1(d) and 102.2.

1. Requirements

Committees that file electronically must include their email address. Others are encouraged to do so. 11 CFR 102.2(a)(1)(vi).

2. Amendments

Amend Statement of Organization (and other filings) when necessary within 10 days of change. 11 CFR 102.2(a)(2).

Committee Registration

Committee Name:

If registered, FEC ID:

Today's Date:

This committee intends to make independent expenditures, and consistent with the U.S. Court of Appeals for the District of Columbia Circuit decision in *SpeechNow v. FEC*, it therefore intends to raise funds in unlimited amounts. This committee will not use those funds to make contributions, whether direct, in-kind, or via coordinated communications, to federal candidates or committees.

Respectfully submitted,

Treasurer's signature

Treasurer's Name:
, Treasurer

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3. **Additional Letter for Super PACs ONLY**
Committee must file notification letter (available at http://www.fec.gov/pdf/forms/ie_only_letter.pdf) along with FEC Form 1 at the time of registration, to inform Commission of its intent to be a Super PAC and to state that it will not use the funds in its account for making contributions to federal candidates or committees. (See footnote 1, AO 2010-09 (Club for Growth).)

Committee Registration

Committee Name:


If registered, FEC ID:

Today's Date:

Consistent with the stipulated judgment in *Carey v. FEC*, this committee intends to establish a separate bank account to deposit and withdraw funds raised in unlimited amounts from individuals, corporations, labor organizations, and/or other political committees. The funds maintained in this separate account will not be used to make contributions, whether direct, in-kind, or via coordinated communications, or coordinated expenditures, to federal candidates or committees.

Treasurer's Signature

Treasurer's Name: , Treasurer



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4. Additional Letter for Hybrid PACs ONLY

Until Commission adopts formal rules, nonconnected committees that establish a separate Non-Contribution Account consistent with stipulated judgment in *Carey* should notify Commission of their intent to do so.

- Registered traditional nonconnected committees that wish to establish a separate non-contribution account to become a Hybrid PAC should notify the FEC by letter (available online at http://www.fec.gov/pdf/forms/noncontribution_letter.pdf) or electronic submission (Form 99) with wording shown above.
- Newly registering committees should include the notification letter with their Form 1 (Statement of Organization) at the time of registration.
- See *Reporting Guidance for Political Committees That Maintain a Non-contribution Account* at <http://www.fec.gov/press/Press2011/20111006postcarey.shtml>.

Committee Registration

FEC Form 1 (Revised 02/2009) Page 2

5. TYPE OF COMMITTEE
Candidate Committee:

(a) ☐ This committee is a principal campaign committee. (Complete the candidate information below.)

(b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate _____

Candidate Party Affiliation _____ Office Sought _____ House _____ Senate _____ President _____ State _____

Political Action Committee (PAC):

(e) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:


<input type="checkbox"/> Corporation	<input type="checkbox"/> Corporation w/o Capital Stock	<input type="checkbox"/> Labor Organization
<input type="checkbox"/> Membership Organization	<input type="checkbox"/> Trade Association	<input type="checkbox"/> Cooperative
<input type="checkbox"/> In addition, this committee is a Lobbyist/Registrant PAC.		

(f) ☒ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)

☒ In addition, this committee is a Lobbyist/Registrant PAC.

☒ In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

☐ In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)



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5. Additional requirements for Lobbyist/Registrant PACs ONLY (11 CFR 104.22(c))

Check applicable box if the PAC is:

- a) Disclosed as being established or controlled by a lobbyist/registrant on a report filed with the Clerk of the House or Secretary of the Senate; or

OR


- b) If unable to ascertain whether (a) applies, meets one of these two criteria:
- Lobbyist/registrant had primary role in establishment of political committee; or
 - Lobbyist/registrant directs the governance or operations of committee (either formally or informally) 11 CFR 104.22(a)(4).

(More information in Part Two to come.)

6. Additional requirements for Leadership PACs ONLY (11 CFR 100.5(e)(6))

Check applicable box if the PAC is directly or indirectly established, financed, maintained or controlled by federal candidate/officeholder (more later in this section).

☐ No Connected Organization

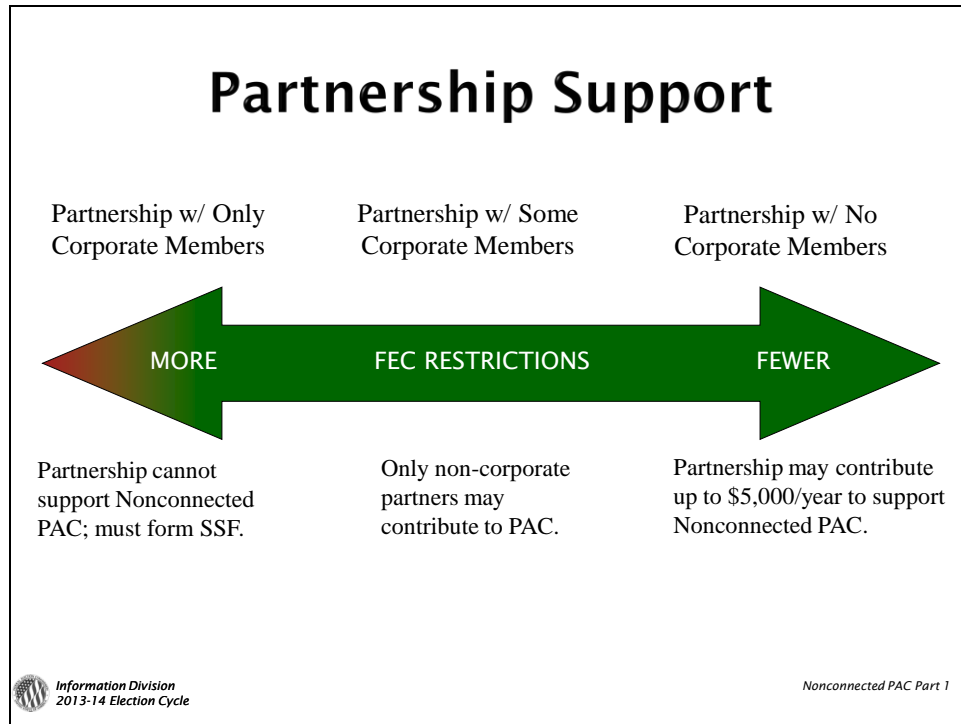


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Nonconnected PAC Part 1

IV. Other Registration and Organization Issues: No Connected Organization

1. **Why?** No “connected organization” – i.e., they do not have a sponsoring organization that is incorporated or a labor organization.
2. **In cases where there is a federal and nonfederal PAC, administrative expenses may be allocated between the accounts (more later on this).**



B. Special Rules for Partnership PACs

- 1. Partnership without Corporate Partners (11 CFR 110.1(d) and (e); AO 1982-63)**
 - a) Partnership may sponsor a nonconnected committee (or PAC).
 - b) Partnership support of PAC is limited to \$5,000 a year, according to the contribution limits.
- 2. Partnership with Corporate Partners**
 - a) Partnership composed entirely of corporate members may not establish political committee unless the partnership is affiliated with one of the corporate partners (for example, when a joint venture partnership is affiliated with one of its corporate owners). In that case it may establish a corporate PAC (separate segregated fund). AO 2003-28.
 - b) Corporate PAC would follow completely different rules for establishing PAC and soliciting contributions for the PAC. See *Campaign Guide For Corporations and Labor Organizations* and 11 CFR Part 114. See also AOs 2008-05 and 2004-42.

V. Other Registration and Organization Issues: Affiliation

Committee Registration

▣ List Any Affiliated Committees

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

Mailing Address _____

CITY STATE ZIP CODE

Relationship: ☐ Connected Organization ☒ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor

Affiliated Committees

Committees established, financed, maintained or controlled by same entity:

- Principal Campaign Committee and Other Authorized Committees
- State Party and Registered Local Party Committees in that State
- Corporate Parent and Subsidiaries
- National Membership Organization and its State and Local Units

Generally treated as one committee for purposes of the federal campaign finance laws:

- Share limits on contributions made and received

A. Affiliated Committees (11 CFR 100.5(e) and 110.3(a)(3))

1. How to Determine:

- a) Principle: committees established, financed, maintained, or controlled by same entity or group of persons.
- b) Others may also be affiliated depending on various factors, such as similar patterns of contributions, common officers, etc. See 11 CFR 100.5(g) & 110.3(a).

2. Examples:

- a) Nonconnected: PACs established, financed, maintained, or controlled by same entity or group of persons.
- b) Examples for other types of committees:
 - Candidate – principal campaign committee and all authorized committees; limits on contributing to candidate apply on per election basis.
 - Party – state party committees normally affiliated with local party committees in same state; national party and state party have separate limits, but may transfer between each other.
 - Corporation – PACs set up by parent, subsidiary, branch, division or other affiliate.
 - Union
 - (1) National and its locals.
 - (2) International and its local, state and central bodies.
 - (3) If union belongs to AFL-CIO, the PACs of that union are affiliated with each other, but are not affiliated with the PACs established by national and state AFL-CIOs.
 - Membership – PACs established by national membership organization and its state and local affiliates.
 - Trade Association – PACs established by federation and its regional, state and local associations, but PACs of member corporations not affiliated with trade association's PACs.

3. Why Important:

- a) Same contribution limit applies to contributions received and made by affiliated committees.
- b) If one committee qualifies as multicandidate, all its affiliated committees qualify.
- c) No limit on transfers between affiliated committees.

Committee Registration

☐ List Leadership PAC Sponsor

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

Mailing Address

CITY

STATE

ZIP CODE

Relationship: ☐ Connected Organization ☐ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor



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Definition: Leadership PAC

Nonconnected PAC directly/indirectly controlled
by federal candidate or officeholder, but is:

- ✗ NOT an authorized committee;
- ✗ NOT affiliated with an authorized committee; and
- ✗ NOT a party committee.



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4. Application to Leadership PACs (See 11 CFR 100.5(e)(6) and 104.22)

a) Definition of Leadership PAC:

A federal PAC that is directly or indirectly established, financed, maintained or controlled by federal candidate/officeholder but is:

- Not an authorized committee;
- Not affiliated with an authorized committee; and
- Not a political party committee. 11 CFR 100.5(e)(6) and (g)(5).

b) Check applicable box if the PAC is a federal PAC that is directly or indirectly established, financed, maintained or controlled by federal candidate/officeholder.

c) Identify the federal candidate/officeholder.

Committee Registration

☐ List Leadership PAC Sponsor

6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

Jane Doe

Mailing Address 123 Main Street

Anytown CITY ST 00000 ZIP CODE

Relationship: ☐ Connected Organization ☐ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor

NOT AFFILIATED


5. Leadership PACs are not affiliated with Authorized Committee

Although a Leadership PAC technically has a “sponsor” that must be listed on Form 1, by definition it is not affiliated with the authorized committee of its sponsoring official or candidate.

VI. Other Registration and Organization Issues: Treasurer

Committee Registration

▣ List PAC Treasurer



g. Treasurer: List the name and address (phone number – optional) of the treasurer of the committee and the name and address of any designated agent (e.g., assistant treasurer).

Full Name of Treasurer	
Mailing Address	
Title or Position ▼	STATE ▲ ZIP CODE ▲

Full Name of Designated Agent	
Mailing Address	
Title or Position ▼	CITY ▲ STATE ▲ ZIP CODE ▲
Telephone number	

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Nonconnected PAC Part 1

A. Treasurer Required – Asst. Treasurer Recommended Identify on Form 1.

Committee Registration

▼ Treasurer & Assistant Treasurer

- Deposits receipts
- Authorizes all expenditures
- Monitors contributions
- Keeps all required records
- Signs reports
- Files accurate reports on time

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2. Duties:

- Depositing receipts.
- Authorizing all expenditures.
- Monitoring contributions.
- Keeping all required records.
- Signing reports.
- Filing accurate reports on time.

Treasurer's Liability

- ▶ Treasurer generally named as enforcement respondent in official capacity
- ▶ Personal liability possible if:
 - Knowingly & willfully violated the Act;
 - Recklessly failed to fulfill duties; or
 - Intentionally ignored information that led to the violation

3. Treasurer Responsible for Compliance.

- a) Usually named in enforcement actions.
- b) Policy statement on when treasurer may be found personally liable (online at <http://www.fec.gov/law/policy/2004/notice2004-20.pdf>)
- c) Embezzlement policy (online at <http://www.fec.gov/law/policy/embezzlepolicy.pdf>)
- d) Resources for Treasurers:
<http://www.fec.gov/info/TipsforTreasurers.shtml> - RSS feed, weekly email, links to relevant publications and reporting and best practices information.

Recordkeeping

Contributions over \$50, record:

- Amount
- Date received
- Donor's name and address
- Full-size photocopy or digital image of check



Contributions aggregate over \$200, record:

- Above information plus occupation and employer if from individual

VII. Other Registration and Organization Issues: Recordkeeping and Best Efforts (11 CFR 102.8 and 102.9)

A. Recordkeeping

1. For Receipts

- a) For any amount, need date received and amount.
- b) Over \$50, name and address of contributor/payor.
- c) Over \$200, above plus occupation and employer.

Recordkeeping

All disbursements, record:

- Amount
- Date
- Name and Address of Payee
- Purpose of Disbursement



For contributions:

- Above information, plus name of candidate, state, district and election designation

2. For Disbursements

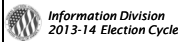
- a) For any amount, need name of payee, address, purpose, date made.
- b) For contributions made, also need name of candidate, state, district, and election designation.

3. Record Retention

Retain each record for three years from the date of the report on which it was last disclosed.

Making Best Efforts

- ✓ Request contributor info when soliciting contribution
- ✓ If info missing, make follow-up request within 30 days
- ✓ Amend report to disclose missing information once received



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B. Best Efforts (11 CFR 104.7)


1. Required to make “best efforts” to obtain, maintain and report required information.
2. To show “best efforts,” committee must:
 - a) Request information in solicitation materials, along with applicable disclaimer informing contributors that information is required under federal law;
 - b) Make follow-up request within 30 days of receipt of contributions lacking required information, keep written documentation of follow-up request (with no additional solicitation made); and
 - c) Amend reports to disclose information received but not previously disclosed (or include information in memo reports on the next report filed).


FILING REPORTS

I. Where to File: FEC

Where to File

Federal Election Commission
999 E Street, NW
Washington, DC 20463





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II. Filing Schedule (11 CFR 104.5(c))

- A. **During Non-election Year (odd-numbered year)**
 - 1. **PACs and Party Committees File Semi-Annually or Monthly**
 - a) Semi-annual filers must file reports due July 31 and January 31.
 - b) Monthly filers must file report on 20th of each month.

Quarterly Filers - 2013

Report Type	Coverage Dates	Due Date
Mid-Year	01/01/13 - 06/30/13	07/31/13
Year-End	07/01/13 - 12/31/13	01/31/14

Semi-annual Reports

Monthly Filers - 2013

Reporting Period	Due Date
January 1-31	February 20
February 1-28	March 20
March 1-31	April 20
April 1-30	May 20
May 1-31	June 20
June 1-30	July 20
July 1-31	August 20
August 1-31	September 20
September 1-30	October 20
October 1-31	November 20
November 1-30	December 20
December 1-31 (Year-End)	January 31, 2014

Quarterly Filers - 2014

Report Type	Coverage and Due Dates
April Quarterly	Covers 1/1 - 3/31; Due 4/15/14
July Quarterly	Covers 4/1 - 6/30; Due 7/15/14
October Quarterly	Covers 7/1 - 9/30; Due 10/15/14
Pre-Election	Covers 1st day of current period to 20 days before election; Due 12 days before election (12G covers October 1-15, 2014; Due 10/23/14)
Post-General	Covers from 1 st day of period to 11/24; Due 12/4/14
Year-End	Covers 11/25 to 12/31; Due 1/31/15

B. During Election Year (even-numbered year)

1. PACs and Party Committees File Quarterly or Monthly

- a) Quarterly reports due April 15, July 15 and October 15 and January 31; Pre-Primary, Pre-General, Post-General.
- b) Monthly filers must file report on 20th of each month, except Pre-General and Post-General in lieu of November and December monthly reports.

Quarterly Filers - 2014

Pre-Primary Reports

- ❑ Due 12 days before any primary in which the committee makes previously undisclosed contributions or expenditures
- ❑ Required for campaign committees in connection with candidate's primary

Monthly Filers - 2014

Reporting Period	Due Date
January 1-31	February 20
February 1-28	March 20
March 1-31	April 20
April 1-30	May 20
May 1-31	June 20
June 1-31	July 20
July 1-31	August 20
August 1-31	September 20
September 1-30	October 20
October 1-15 (Pre-General)	October 23
October 16-November 24 (Post-General)	December 4
November 25-December 31 (Year-End)	January 31, 2015

Choosing a Filing Schedule

Committees active in a number of different states may benefit from filing monthly.

Changing Filing Frequency

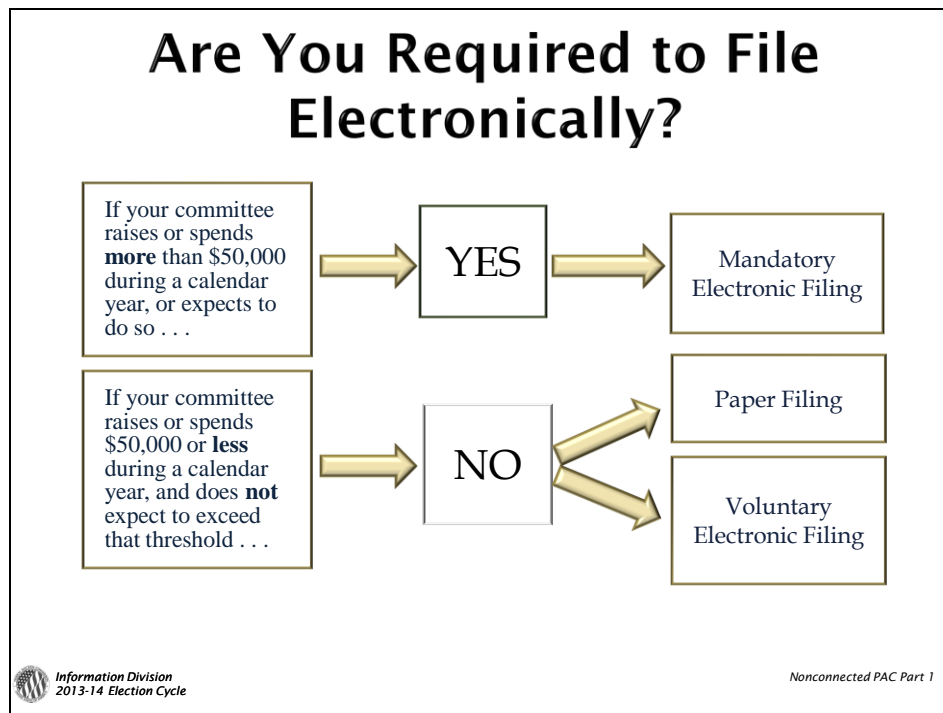
- ▶ Request on or before next report
 - Electronic filers must submit request electronically
- ▶ No more than once per year

B. Changing Filing Schedule

1. Timing

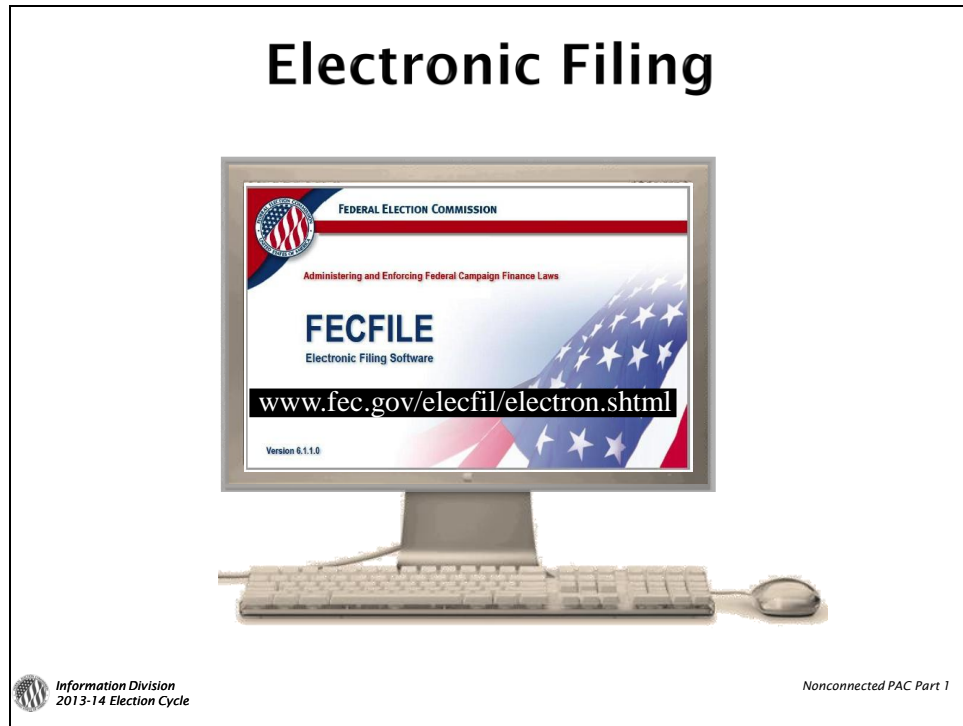
- a) PACs and parties may change their filing schedule from quarterly to monthly or from monthly to quarterly only after notifying the Commission in writing (or electronically if an e-filer), of its intention at the time it files a required report under its current filing schedule or in a separate miscellaneous text submission (Form 99) filed at any time.
 - b) Such political committee will then be required to file the next required report under its new filing schedule and will receive a letter which lists the subsequent filing requirements.
2. **May only change filing schedule once per calendar year.**
 3. **A semi-annual filing PAC in 2013 automatically will file quarterly in 2014.** No need to notify FEC (unless switching to monthly).

III. Electronic Filing



A. Mandatory for:

PACs (including all types of nonconnected PACs), House Campaigns and Party Committees that raise or spend more than \$50,000 in calendar year or have reason to expect to do so.



B. Voluntary for All Other Filers

C. Password Required

Before you can electronically file your report, you will have to obtain a password. You cannot file without one.

1. Who Can Get a Password?

Only the treasurer and assistant treasurer(s) listed on the committee's Form 1 can get a password. Assistant treasurer's password request must be signed by both assistant and treasurer.

2. How Do You Get a Password?

- a) Most committees may obtain or change their password on-line at <http://www.fec.gov/electfil/passwords.shtml>
- b) Existing committees that have not previously used the on-line system should contact the Electronic Filing Office for assistance at 202-694-1307.

3. Paper Filing by E-Filer

Committees that submit a report on paper that should have been filing electronically will be treated as non-filers and may be subject to enforcement actions (including Administrative Fines).

4. For more information: <http://www.fec.gov/electfil/electron.shtml>.

Other Filing Considerations

- ▣ No Extensions
 - Filing dates not extended for weekends or holidays.
 - Must be received on business day preceding filing date.
- ▣ Registered/Certified vs. Overnight Mail
 - If filing using USPS registered/certified mail, keep receipt.
 - “Overnight Mail” means next-day express or priority mail with delivery confirmation or overnight service with online tracking system. Same terms as registered/certified mail. (Keep receipt/tracking number.)



Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

CONTRIBUTIONS AND FUNDRAISING

Objectives

- ▣ Identify types of Nonconnected PACs and review basic characteristics
- ▣ **Discuss fundraising rules**
- ▣ Describe methods of supporting federal candidates
- ▣ Highlight key rules on travel and lobbyist bundling

I. Contribution Limits

A. Federal PAC

A contributor may give up to \$5,000 per calendar year to a traditional federal nonconnected PAC (including leadership PACs, partnership PACs and the federal account of a hybrid PAC).

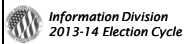
Contribution Limits

For 2013-14 Elections	Candidate per election	National Party per year	State, District & Local Party per year	Any PAC per year	Special Limits
Individual	\$2,600	\$32,400	\$10,000 (combined)	\$5,000	\$123,200 biennial limit
National Party	\$5,000	No Limit	No Limit	\$5,000	\$45,400 per Senate campaign
State, District & Local Party	\$5,000 (combined)	No Limit	No Limit	\$5,000 (combined)	None
PAC: multicandidate	\$5,000	\$15,000	\$5,000 (combined)	\$5,000	None
PAC: not multicandidate	\$2,600	\$32,400	\$10,000 (combined)	\$5,000	None



Contribution Limits

Limits do not apply to Super PACs



Nonconnected PAC Part 1

- B. Application to Super PACs AND Non-Contribution Accounts**
 - 1. Contributions TO Super PAC – Unlimited**
 - 2. Contributions BY Super PAC – Not permitted**

Prohibited Sources

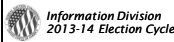
- ▣ Corporations and Unions

Corporate/Labor ban does not apply to Super PACs

- ▣ Federal Government Contractors

- ▣ Foreign Nationals

- ▣ Contributions in Name of Another



Nonconnected PAC Part 1

II. Contribution Prohibitions

- A. **Corporations (including incorporated membership, trade and cooperative organizations or associations), labor organizations and national banks** are prohibited from making contributions in connection with federal elections. **11 CFR 114.2**. Therefore, they may not:
 - 1. **Act as conduit for earmarked contribution.**
 - 2. **Give discount to campaign or committee that is not in normal business practice.**
 - 3. **Allow use of facilities or resources without reimbursement, and, in some cases, advance payment.**
- B. **Federal Government Contractors (11 CFR Part 115)**
- C. **Foreign Nationals (11 CFR 110.20)**
 - 1. **American subsidiary of foreign corporation may establish SSF only if:**
 - a) Foreign nationals do not control or participate in decisions of SSF; and
 - b) SSF is not administered or otherwise funded with foreign revenues.
 - 2. **Ban does not apply to permanent resident aliens (green card holders).**

3. **Individuals who are foreign nationals may:**
- a) Volunteer for Congressional campaign and participate in decision-making. AO 2004-26.
 - b) Attend campaign fundraising events. AO 2004-26.
 - c) They may not, however, participate in decision-making regarding election activities for a corporation or a political committee. AOs 2004-32 and 2004-26.

D. Certain Prohibitions Apply to All Elections (11 CFR 114.2(a))

- 1. Foreign nationals
- 2. National banks
- 3. Federally chartered corporations

Fundraising Restrictions

Prohibited Activity

Generally, federal candidates and officeholders -- and entities they directly or indirectly establish or control -- cannot solicit, receive, direct, transfer, spend or disburse funds outside federal limits and prohibitions.

III. Fundraising by Federal Officeholders and Candidates for PACs (11 CFR 300.61)

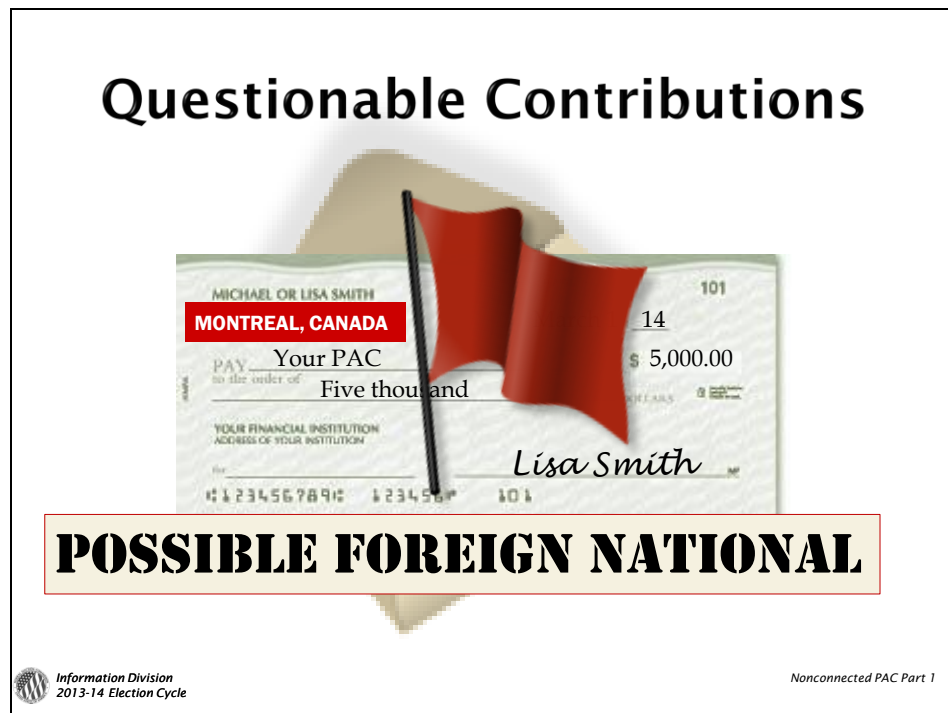
A. For Federal Elections

Federal candidates and officeholders—and **entities they directly or indirectly establish or control (i.e., Leadership PACs)**—may solicit, receive, direct, transfer, spend or disburse only federal funds in connection with a federal election or Federal Election Activity (FEA).

B. For Nonfederal Elections

Federal candidates, officeholders (and their leadership PACs) may solicit, receive, direct, transfer, spend or disburse **only** federal funds for elections other than federal elections.

- C. Prohibition includes not soliciting unlimited contributions from individuals, corporations or labor organizations on behalf of independent expenditure-only political committees. See AO 2011-12.



V. Handling Questionable Contributions to Federal PAC Accounts

A. Procedures:

1. Deposit While Checking Permissibility

If unsure whether contribution is from a permissible source, PAC may deposit it while confirming permissibility.

2. Refund After 30 Days If Unable to Verify Legality

Within 30 days of receipt, must refund if unable to determine if contribution is permissible.


3. Example: If determining if individual/entity is a foreign national, seek and obtain copies of valid U.S. Passport papers.

Questionable Contributions

- ❑ Deposit or return \leq 10 days of receipt
- ❑ Determine legality \leq 30 days
- ❑ Seek oral or written evidence for files
- ❑ Retain or refund, as appropriate

VI. Elements of a Solicitation for Funds

Nonconnected PAC Solicitation



Dear Mike and Ike,

Please help us elect candy-loving candidates to Congress contributing to our PAC.

As you may know, Candy PAC may accept individual contributions up to \$5,000 per year, but cannot accept corporate or union funds.

Note that federal law requires us to ask for name, address, occupation and employer for any contributor who gives more than \$200 in the calendar year.

Best,
Mr. Goodbar
Executive Director


Paid for by the Citizens Who Love Candy PAC and not authorized by any candidate or candidate's committee.
www.CandyPAC.com

← PAC's Purpose

← Basic Rules

← Best Efforts

← Disclaimer


 Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

- A. **Statements to Include in Solicitation for Nonconnected PAC:**
Note that while wording may vary, all of these elements should be present in any solicitation by any type of nonconnected committee.

1. **PAC's Purpose**
Include a statement that indicates that the contribution will be used in a federal election. This is required when the contribution for the contribution to be deposited into a federal account. 11 CFR 102.5.
2. **Helpful: Statement of Contribution Limits and Prohibitions**
3. **Strongly Recommended: Best Efforts Statement:**
 - a) Required to make "best efforts" to obtain, maintain and report required information.
 - b) Keep written documentation of follow-up request (with no additional solicitation made). 11 CFR 104.7.
4. **Required Disclaimer for PAC Solicitations**
 - a) Must disclose the full name and permanent street address, telephone number or website address of the person who paid for the communication, and also state that the communication was not approved by any candidate. 11 CFR 110.11(b)(3).
 - b) Sample wording of disclaimer: "Paid for by Citizens Who Love Candy PAC and not authorized by any candidate or candidate's committee. www.WeLoveCandyPAC.com."

Super PAC Solicitation



Dear Mike and Ike,

Please help us elect candy-loving candidates to Congress by giving to our new Super PAC.

As a Super PAC, we may accept unlimited contributions, including contributions from corporations and labor unions.

Note that federal law requires us to ask for name, address, occupation and employer for any contributor who gives more than \$200 in the calendar year.

Best,
Mr. Goodbar
Executive Director

Paid for by the Citizens Who Love Candy PAC and not authorized by any candidate or candidate's committee.
Visit us at www.CandyPAC.com

← PAC's Purpose

← Basic Rules

← Best Efforts


← Disclaimer



Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

Hybrid PAC Solicitation(s)



Dear Mike and Ike,

Please help us elect candy-loving candidates to Congress by giving to our new Hybrid PAC.

We collect contributions subject to FEC limits and prohibitions and also collect unlimited contributions--including funds from corporations and labor unions—to finance independent expenditures.

Note that federal law requires us to ask for name, address, occupation and employer for any contributor who gives more than \$200 in the calendar year.

Best,
Mr. Goodbar
Executive Director

Paid for by the Citizens Who Love Candy PAC and not authorized by any candidate or candidate's committee.
Visit us at www.CandyPAC.com



Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

Reporting Scenario #1

Itemizing Contributions Received

- ❑ What type of transaction is this?
- ❑ How must the committee disclose the transaction?
- ❑ What information from the scenario do we need to disclose this correctly?
- ❑ Tricky Issues?



Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

Reporting Receipts

Mike and Ike 1001 Candy Cane Lane Confection, CA 00000		1936
February 12, 2014 <small>DATE</small>		
PAY TO THE ORDER OF	Citizens Who Love Candy PAC	\$ 10,000.00
Ten thousand and ----- 00/100		DOLLARS
FOR \$5,000 -Mike; \$5,000 - Ike		<i>Mike Ike</i>
⑆000000186⑆ 000000529⑆		1000



Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

Candy Bar manufacturers and partners Mike and Ike have made a \$10,000 contribution on February 12, 2014 to the Citizens Who Love Candy PAC, a federal nonconnected PAC that makes contributions to federal candidates. The PAC received their check on February 14. They used their personal joint account for this contribution, but were careful to both sign the check and note how much to attribute to each partner.

How should this contribution be reported by the PAC? (Assume that the PAC files on a monthly basis and that neither Mike nor Ike have contributed to the PAC this year.)

- 1. What type of transaction is this?**
- 2. How must the committee disclose the transaction(s)?**
- 3. What information from the scenario do we need to disclose this correctly?**

Answers: Reporting Scenario #1: Itemizing Individual Contributions Received

1. What type of transaction is this?

Answer: Mike and Ike have each made a \$5,000 contribution to the PAC.

2. How must the committee disclose the transaction(s)?

Answer: Since the PAC has now received aggregate contributions from Mike and Ike that exceed \$200 in the calendar year, it must disclose each contribution by itemizing it on their March Monthly report on Schedule A, Line 11a(i), along with each contributor's aggregate year-to-date total (\$5,000) and contributor information.

Reporting Receipts

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
			<input checked="" type="checkbox"/> 11a		
			<input type="checkbox"/> 11b		
			<input type="checkbox"/> 11c		
			<input type="checkbox"/> 12		
			<input type="checkbox"/> 13		
			<input type="checkbox"/> 14		
			<input type="checkbox"/> 15		
			<input type="checkbox"/> 16		
			<input type="checkbox"/> 17		

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Citizens Who Love Candy PAC

Full Name (Last, First, Middle Initial)
A. Mike

Mailing Address
1001 Candy Cane Lane

City
Confection

State
CA

Zip Code
00000

FEC ID number of contributing federal political committee.
C

Name of Employer
Mike & Ike, Inc.

Occupation
Candy Maker

Receipt For:
☐ Primary ☐ General
☐ Other (specify) ▼

Aggregate Year-to-Date ▼
5,000.00

Date of Receipt
02 / 14 / 2014

Amount of Each Receipt this Period
5,000.00

Full Name (Last, First, Middle Initial)
B. Ike

Mailing Address
1001 Candy Cane Lane

City
Confection

State
CA

Zip Code
00000

FEC ID number of contributing federal political committee.
C

Name of Employer
Mike & Ike, Inc.

Occupation
Candy Maker

Receipt For:
☐ Primary ☐ General
☐ Other (specify) ▼

Aggregate Year-to-Date ▼
5,000.00

Date of Receipt
02 / 14 / 2014

Amount of Each Receipt this Period
5,000.00



Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

3. What information from the scenario do we need to disclose this correctly?

Answer: Remember, for contributions greater than \$50, a committee must obtain the identity of the contributor and the date the contribution was received. The committee must also use “best efforts” to obtain, maintain and report the name of employer and occupation since their aggregate year-to-date contributions total to the PAC is greater than \$200 each in the calendar year.

Points to Remember:

- Itemize contributions from an individual or other person/entity on Schedule A, Line 11(a)(i), once aggregate calendar year to date received exceeds \$200.
- **Required Information in Itemizing Receipts:**
 - Full name and address of contributor or source
 - Occupation/employer – if contributor is an individual
 - Date of receipt
 - Amount
 - Aggregate year-to-date total of all receipts from the same source.
 - Optional, but encouraged: Committee ID# where applicable
- Date reported is the date of receipt, not the date of deposit, or the date on the check.
- Don't fill in election information on Schedule A for individual contributions.

Reporting Scenario #1B: Contributions Received by Non-Contribution Account

Besides maintaining a federal account, as a hybrid PAC, the Citizens Who Love Candy PAC also maintains a non-contribution account for making independent expenditures. Using their corporate account, Mike and Ike issued a check to the PAC's non-contribution account as well on February 12, for \$50,000.00, which the PAC received on February 14.

Reporting Receipts

Mike and Ike, Inc.
3 Musketeer Street
Confection, CA 00000

1936


February 12, 2014
DATE

PAY TO THE ORDER OF Citizens Who Love Candy PAC

\$ 50,000.00


Fifty thousand and -----

00/100 DOLLARS




FOR Super PAC Contribution

Kandi Barr



1000

 Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

- 1. What type of transaction is this?**

- 2. How must the committee disclose the transaction(s)?**

- 3. What information from the scenario do we need to disclose this correctly?**

Answers – Reporting Scenario 1B: Contributions Received by Non-Contribution Account

1. What type of transaction is this?

Answer: This is a contribution to the PAC's Non-Contribution Account from Mike and Ike, Inc. While the PAC **must** maintain non-contribution funds in a separate bank account, all contributions/expenditures from the non-contribution account must be reported on the PAC's usual FEC report. While contributions to the PAC's contribution account are limited to \$5,000 per calendar year from an individual, contributions to the Non-Contribution Account are not subject to a dollar limit (but still cannot be accepted from foreign nationals). Even though Mike and Ike, Inc. could NOT make a contribution to the PAC's federal account, corporate contributions are permissible to the Non-Contribution Account.

2. How must the committee disclose the transaction(s)?

Answer: The PAC should report all contributions to its non-contribution account on **Schedule A, Line 17**, "Other Federal Receipts," of Form 3X. When itemizing such contributions, electronic filers should identify the receipts by entering "Non-Contribution Account" in a memo text or in the description field. Paper filers should write "Non-Contribution Account" below the amount.

Contribution to Hybrid/Super PAC

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)		PAGE	OF	
			<input type="checkbox"/> 11a 13	<input type="checkbox"/> 11b 14	<input type="checkbox"/> 11c 15	<input type="checkbox"/> 12 16	<input checked="" type="checkbox"/> 17
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.							
NAME OF COMMITTEE (In Full) Citizens Who Love Candy PAC							
Full Name (Last, First, Middle Initial) A. Mike & Ike, Inc.				Date of Receipt 02 / 14 / 2014			
Mailing Address 3 Musketeer Street							
City Confection		State CA	Zip Code 00000		Amount of Each Receipt this Period 50,000.00		
FEC ID number of contributing federal political committee. C							
Name of Employer		Occupation		Non-contribution Account			
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		Aggregate Year-to-Date ▼ 50,000.00					

3. What information from the scenario do we need to disclose this correctly?

Answer: As with any aggregated contributions to a federal PAC that exceed \$200 in a calendar year from the same source, we'll need the contributor's name and address. We will also need the date of receipt, the amount of the contribution, and the aggregate year-to-date total of all contributions that the contributor has made. In this instance, since the contributor is a corporation, we need not request an employer or occupation. However, in the case of individuals, once the aggregate year-to-date contributions exceed \$200, the PAC would need to use their best efforts to obtain and report the name, address, employer and occupation of the individual.

Points to Remember:

- Itemize contributions to the Non-Contribution Account on Line 17 (Other Federal Receipts)
- Be sure to note on the report each itemized contribution to the non-contribution account by indicating in the description field or by memo text, "Non-Contribution Account."

- Existing committees should notify the Commission of their intent to establish a non-contribution account by letter or electronic submission (Form 99).
- New committees should inform the Commission of their intent to establish a non-contribution account by notification letter when filing their initial Form 1 (Statement of Organization).
- Report all Independent Expenditures on Line 24 of Form 3X, but indicate “Non-Contribution Account” if IE is made from that account on the itemized entry on Schedule E.
- Administrative expenses paid from the committee’s Non-Contribution Account should be disclosed on Line 29 (Other Disbursements) of Form 3X, NOT Line 21(b) (Operating Expenditures). Identify these disbursements by entering “Non-Contribution Account” on itemized entry on Schedule B.
- See reporting guidance for Hybrid PACs posted online at <http://www.fec.gov/press/Press2011/20111006postcarey.shtml>.

Reporting Scenario #2

Reporting Ultimate Payees

- ▣ What type of transaction is this?
- ▣ How must the committee disclose the transaction?
- ▣ What information from the scenario do we need to disclose this correctly?
- ▣ Tricky Issues?

Reporting Scenario #2 – Reporting Ultimate Payees

On April 20, Citizens who Love Candy PAC's treasurer, Joy Almond, realizes that the office is low on supplies. She uses her personal funds to purchase \$750.00 worth of office supplies from the nearby Staples.

She is reimbursed by the PAC in full on April 30.

1. What type of transaction is this?
2. How must the committee disclose the transaction(s)?
3. What information from the scenario do we need to disclose this correctly?

Answers – Reporting Scenario #2: Reporting Ultimate Payees

1. What type of transaction is this?

Answer: Joy's initial purchase is an advance of personal funds. When an individual who is not acting as a vendor advances personal funds to obtain goods or services that are used by a political committee, the committee must treat the individual's payment as a contribution and as an outstanding debt until reimbursed. 11 CFR 116.5.

2. How must the committee disclose the transaction(s)?

Answer: In this case, Joy made her advance and was reimbursed in the same reporting period. Therefore, the reimbursement made to her is itemized on Schedule B for Line 21b (Other Federal Operating Expenses). Joy is listed as the payee, along with her mailing address, and the date, amount and purpose of the reimbursement.

Because her payments to the vendor aggregated more than \$200 in a calendar year, the PAC must also include a memo entry that includes the name and address of the vendor, as well as the date, amount and purpose of the repayment.

Identifying Ultimate Payee

Made and
Reimbursed
in Same
Period

SCHEDULE B (FEC Form 3X) ITEMIZED DISBURSEMENTS		FOR LINE NUMBER: (check only one)	PAGE OF
Use separate schedule(s) for each category of the Detailed Summary Page		<input checked="" type="checkbox"/> 21b <input type="checkbox"/> 22 <input type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26	
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.		<input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29 <input type="checkbox"/> 30b	
NAME OF COMMITTEE (In Full) Citizens Who Love Candy PAC			
A. Full Name (Last, First, Middle Initial) Almond, Joy		Date of Disbursement 04 / 30 / 2014	
Mailing Address 460 E. 32nd Street			
City, State, Zip Code New York NY 10024			
Purpose of Disbursement Reimbursement for office supplies		Amount of Each Disbursement this Period 750.00	
Candidate Name		Category/Type	
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President State: District:	Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		
B. Full Name (Last, First, Middle Initial) Staples		Date of Disbursement 04 / 20 / 2014	
Mailing Address 900 W. 79th Street			
City, State, Zip Code New York NY 10024			
Purpose of Disbursement Office supplies		Amount of Each Disbursement this Period 750.00	
Candidate Name		Category/Type	
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President State: District:	Disbursement For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼	MEMO	

3. What information from the scenario do we need to disclose this correctly?

Answer: To itemize ultimate payees, the PAC needs not only Joy's name and address, but also the date she made the initial payment to the vendor, as well as the vendor's name and address. The specific purpose of the disbursement must be listed and must meet the qualifications to be considered an "adequate" purpose.

Points to Remember:

- Disbursements are itemized when payments made to a specific payee aggregate more than \$200 in a calendar year.
- In these two situations, the political committee must provide additional information about a vendor who was the ultimate payee:
 - The committee reimburses an individual who used personal funds to pay committee expenses aggregating more than \$200 to a single vendor;
 - The committee's payment of its credit card bill includes charges of more than \$200 to a single vendor;
- See the Notice of Interpretive Rule at 78 FR 40625 (July 8, 2013) (online at http://www.fec.gov/law/cfr/ej_compilation/2013/notice2013-09.pdf) and <http://www.fec.gov/pages/fecrecord/2013/august/ultimatepayeeinterpretiverule.shtml> for more information on reporting ultimate payees.

SHARED SOLICITATIONS/COSTS

I. Paying the Bills for Shared Costs (Federal/Nonfederal PACs)

A. Bills Paid in Two Ways:

1. **Some Items 100% Federal**
2. **Other Items May be Paid for Using Mix of Accounts**
3. **Background on Allocation Rules**
 - a) Guidelines on how nonconnected committees pay for certain allocable expenses.
 - b) Allocation rules don't apply to PACs that use only federal account to pay for everything.

B. Paying for Allocable Expenses

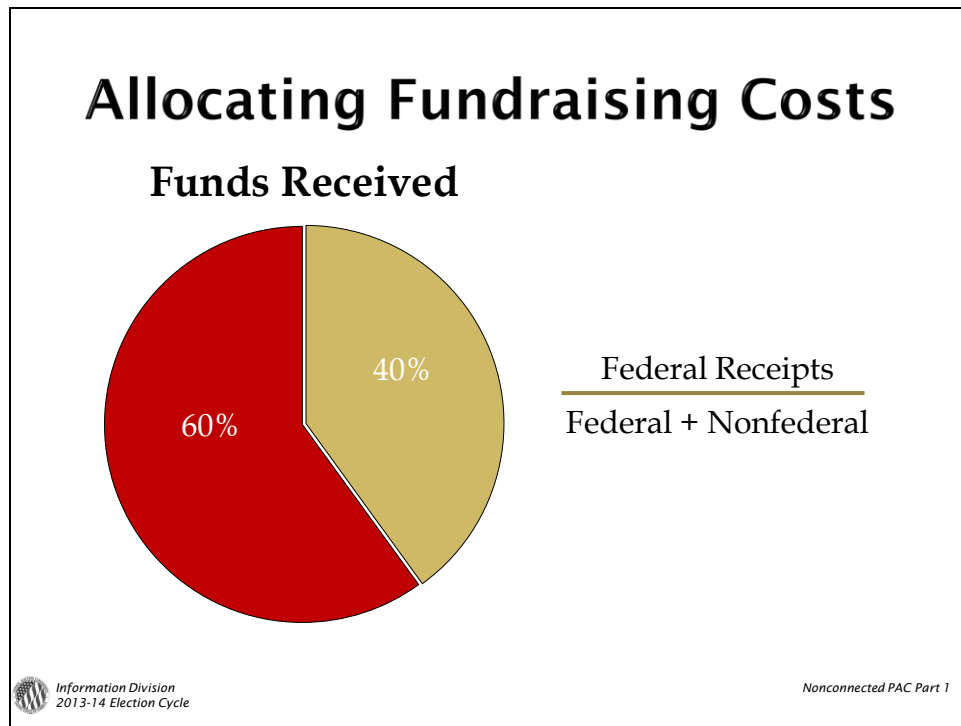
- If PAC maintains one account for federal and state activity, no allocation is required.
- If PAC maintains a federal and a state account, some activities must be allocated (i.e. fundraising expenses for both federal/state PACs).
- *In light of *EMILY's List*, regulations governing allocation of administrative expenses, generic voter drives, and certain public communications have been removed. [75 FR 13223, 03/19/2010]. See page 72.

Allocating Fundraising Costs

Three-Step Process:

1. Use Federal Account
 - Pay total bill from federal account
2. Determine Ratio
 - Determine how much each account may pay
3. Transfer Funds from Nonfederal Account
 - Transfer to federal account to cover share of each allocated expense, ≤ 10 days before or 60 after payment to vendor

1. **Three-Step Process**
 - a) **Step 1: Use Federal Account**
Pay total bill from federal account.
 - b) **Step 2: Determine Ratio**
Use ratio set out in regulations to determine how much each account may pay for an allocable expense.
 - c) **Step 3: Transfer funds from nonfederal account**
Transfer to federal account to cover share of each allocated expense, no more than 10 days before or 60 after the payment to the vendor.
2. **Avoid Contribution/Loan**
Any transfer from a nonfederal account that does not meet the requirements for timing is presumed to be a loan or contribution from nonfederal to federal account, in violation of the Act.
3. **May Pay More than Federal Share with Federal Account**
PAC has the option to pay 100% of a shared activity, without reimbursement from the other accounts. 11 CFR 106.6(e).



- C. **Expenses That May Be Allocated/Applicable Ratios**
1. **Direct costs of fundraising events or programs**

Method: Funds Received Ratio.

Ratio:
$$\frac{\text{fed receipts for program or event}}{\text{total receipts for program or event}}$$

- a) Estimate ratio prior to event, based on reasonable prediction of revenue.
- b) Adjust ratio 60 days after event if actual proportion of funds received for federal vs. nonfederal accounts is different than anticipated; transfer funds between accounts (either way) to reflect adjusted ratio within 60 days after event.
- c) Further transfers from the federal to the nonfederal account may be necessary, should additional federal funds be received after the 60-day period.
- d) Transfers from nonfederal to federal no longer permissible after 60 days.

Reporting Scenario #3: Reporting Shared Fundraising Expenses, Including Ratio Adjustments

Task 1: Determining Ratio for Allocating Fundraising Expenses

Background: At the beginning of each year, the Citizens Who Love Candy PAC holds a fundraiser called Sweeten the Pot. Last year, they raised \$200,000: \$60,000 for their federal account and \$140,000 for their nonfederal account. This year, the PAC hopes to raise the same amount of money for each account.

The fundraiser will be held on February 14, 2014. For reporting purposes, the party assigned the name “Sweeten the Pot” to the event.

1. **What is the first thing we need to do? How do PACs allocate fundraising expenses between their federal and nonfederal accounts?**

Reporting Scenario #3 Answers:

1. What is the first thing we need to do? How do PACs allocate fundraising expenses between their federal and nonfederal accounts?

Answer: Step 1: Determine and Report Ratio.

PACs allocate the direct costs of each fundraising program or event in which the committee collects both federal and nonfederal funds. The costs are allocated according to the **funds received ratio**: the ratio of the federal funds received to total receipts for the fundraising event. (In this case, 60,000 federal receipts ÷ \$200,000 total receipts = 30% federal.)

Show the calculation of the allocation formula, based on the funds received ratio (using this year's estimates), and report the ratio on Schedule H2 (Allocation Ratios for Fundraising and Direct Candidate Support Activities). The ratio is 30% federal, 70% nonfederal.

Reporting Payment Allocation

Step 1: Disclose the Allocation Ratio

SCHEDULE H2 (FEC Form 3X) ALLOCATION RATIOS		PAGE	OF
NAME OF COMMITTEE (In Full) Citizens Who Love Candy PAC			
RATIOS FOR ALLOCABLE FUNDRAISING EVENTS AND DIRECT CANDIDATE SUPPORT ACTIVITIES APPEARING ON THIS REPORT.			
Methods of allocation:			
I. FUNDRAISING activities are allocated using the "funds received method" where the federal proportion of expenses must equal the federal proportion of monies raised.			
II. Shared DIRECT CANDIDATE SUPPORT activities are allocated according to benefit expected to be derived, where the federal proportion of disbursements is based on the benefit derived by federal candidates from the activity. For PACs Only: Direct candidate support includes public communications or voter drives that refer to both federal and nonfederal candidates, regardless of whether there is a reference to a political party. Such expenses are allocated using a time/space method.			
ACTIVITY OR EVENT IDENTIFIER Sweeten the Pot		FEDERAL % 30.00 %	NONFEDERAL % 70.00 %
ACTIVITY IS: <input checked="" type="checkbox"/> Fundraising <input type="checkbox"/> Direct Candidate Support			
CHECK IF THE RATIO IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Revised <input type="checkbox"/> Same as Previously Reported			

Background: To help organize the dinner, the PAC contracted with a consultant, Sweet Affairs, Ltd., for \$10,000. On January 21, 2014, they paid the consultant \$10,000. The nonfederal account transferred its share of the expenses on January 30.

2. **Since we have determined the ratio for this amount, which will allow us to determine each account's share of expenses, how do we actually disclose the payments to the consultant?**
3. **What do we have to do next?**
4. **We know each account's share, and have made the appropriate transfers to square our accounts. What else do we have to account for?**

2. Since we have determined the ratio for this amount, which will allow us to determine each account's share of expenses, how do we actually disclose the payments to the consultant?

Answer: Report Allocated Federal/Nonfederal Share. Show on Schedule H4 the federal and nonfederal shares of the disbursement to the consultant, based on the allocation formula. (30% federal share = \$3,000; 70% nonfederal share = \$7,000) Remember, the entire amount is still paid out of the federal account, even though H4 discloses each account's share.

Reporting Payment Allocation

Step 2: Disclose the Payment

SCHEDULE H4 (FEC Form 3X)			PAGE _____ OF _____	
DISBURSEMENTS FOR ALLOCATED FEDERAL/NONFEDERAL ACTIVITY			FOR LINE 21a OF FORM 3X	
NAME OF COMMITTEE (In Full) Citizens Who Love Candy PAC				
A. Full Name (Last, First, Middle Initial) Sweet Affairs, Ltd.			Allocated Activity or Event: <input type="checkbox"/> Administrative <input checked="" type="checkbox"/> Fundraising <input type="checkbox"/> Exempt <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support <input type="checkbox"/> Public Comm (ref to party only) by PAC	
Mailing Address 344 Peppermint Place City State Zip Code Sweetspot, NJ 00000			Allocated Activity or Event Year-To-Date 10,000.00	
Purpose of Disbursement: Fundraising event planning		Category/ Type	Date 01 / 21 / 2014	
Activity or Event Identifier: Sweeten the Pot				
FEDERAL SHARE +		NONFEDERAL SHARE	= TOTAL AMOUNT	
3,000.00		7,000.00	10,000.00	

3. What do we have to do next?

Answer: Report Transfer from Nonfederal Account. Show the amount of the nonfederal transfer for its share of this fundraising expense on Schedule H3.

Reporting Payment Allocation

Step 3: Disclose the Transfer

SCHEDULE H3 (FEC Form 3X) TRANSFERS FROM NONFEDERAL ACCOUNTS FOR ALLOCATED FEDERAL / NONFEDERAL ACTIVITY			PAGE OF FOR LINE 18a OF FORM 3X
NAME OF COMMITTEE (In Full) Citizens Who Love Candy PAC			
NAME OF ACCOUNT Citizens Who Love Candy State PAC	DATE OF RECEIPT 01 / 30 / 2014	TOTAL AMOUNT TRANSFERRED 7,000.00	
BREAKDOWN OF TRANSFER RECEIVED			
i) Total Administrative			
ii) Generic Voter Drive			
iii) Exempt Activities.....			
iv) Direct Fundraising (List Activity or Event Identifier)			
a) Sweeten the Pot		7,000.00	
b)			
c) Total Amount Transferred For Direct Fundraising		7,000.00	



Information Division
2013-14 Election Cycle

Nonconnected PAC Part 1

Task 2: Determining Ratio Adjustments for Allocated Fundraising Expenses

Background: If you recall, the event was held on February 14. So, 56 days after the event, on April 10, the committee reviews the actual funds received, to determine whether the original ratio reflects the actual funds received by the federal and nonfederal accounts.

The committee determines that they received a total of \$250,000; \$100,000 for the federal account and \$150,000 for the nonfederal account. They spent a total of \$50,000 on the event.

- 4. What should the committee do at this point? How long does the committee have to re-estimate and adjust their fundraising ratio?**
- 5. How do we calculate the amount to transfer from the federal account to the nonfederal account?**

Background: The federal account transfers its share of adjusted expenses on April 11.

- 6. How do we report that transfer?**

4. **What should the committee do at this point? How long does the committee have to re-estimate and adjust their fundraising ratio?**

Answer: The committee has up to 60 days after an event or after the date of a program to adjust the ratio, based on actual funds received, and show the new ratio (40% Federal/60% Nonfederal) on Schedule H2.

- When the adjustment results in a higher federal percentage than originally estimated (as in this case), transfers must be made from the federal account to the nonfederal account for as long as federal funds are received.
- On the other hand, when the federal percentage becomes lower than originally estimated, transfers from the nonfederal account to the federal account can only be made within 60 days after an event.

Reporting Payment Allocation

Step 4: Adjust the Allocation Ratio as Needed

SCHEDULE H2 (FEC Form 3X)		PAGE	OF
ALLOCATION RATIOS			
NAME OF COMMITTEE (In Full) Citizens Who Love Candy PAC			
RATIOS FOR ALLOCABLE FUNDRAISING EVENTS AND DIRECT CANDIDATE SUPPORT ACTIVITIES APPEARING ON THIS REPORT.			
Methods of allocation: I. FUNDRAISING activities are allocated using the "funds received method" where the federal proportion of expenses must equal the federal proportion of monies raised. II. Shared DIRECT CANDIDATE SUPPORT activities are allocated according to benefit expected to be derived, where the federal proportion of disbursements is based on the benefit derived by federal candidates from the activity. For PACs Only: Direct candidate support includes public communications or voter drives that refer to both federal and nonfederal candidates, regardless of whether there is a reference to a political party. Such expenses are allocated using a time/space method.			
ACTIVITY OR EVENT IDENTIFIER Sweeten the Pot (Fundraising Event 2/14/14)		FEDERAL % 40.00 %	NONFEDERAL % 60.00 %
ACTIVITY IS: <input checked="" type="checkbox"/> Fundraising <input type="checkbox"/> Direct Candidate Support			
CHECK IF THE RATIO IS: <input type="checkbox"/> New <input checked="" type="checkbox"/> Revised <input type="checkbox"/> Same as Previously Reported			

5. How do we calculate the amount to transfer from the federal account to the nonfederal account?

Answer: Apply new federal percentage (40% federal) to total expenditures paid for this event (\$10,000). Since the federal share has increased, you will need to calculate the amount that must be transferred from the federal account to the nonfederal account.

- The federal account's percentage under the new ratio is 40%
- The federal account's percentage under the old ratio was 30%
- This is a 10% difference. So the federal account **owes \$1,000 to the nonfederal account** (\$10,000 x 10% = \$1,000)

-OR-

Another way you can determine whether this amount is correct is to calculate the federal account's share using both ratios and transfer the difference. In this case,

- The federal account's share under the new ratio is **\$4,000**. (\$10,000 x 40% = \$4,000)
- The federal account's share under the old ratio is **\$3,000**. (\$10,000 x 30% = \$3,000)
- So, the federal account **owes \$1,000 to the nonfederal account** (\$4,000 - \$3,000 = \$1,000)

Calculating Adjustment

- ▣ Recalculated Federal Share:

$$\$100,000 / 250,000 = 40\%$$

- ▣ Previous Federal Share = 30%

- ▣ Required Transfer = 10% of Expenses

(due to 10% increase in federal share)

- ▣ Total Spent on Event = \$10,000

$$10\% \times \$10,000 = \$1,000$$

Background: The federal account transfers its share of adjusted expenses on April 11.

7. How do we report that transfer?

Answer: Show reporting of transfer on Schedule H4 as a 100% federal expense.

Reporting Adjustment

Adjusted Payment

SCHEDULE H4 (FEC Form 3X)			PAGE _____ OF _____	
DISBURSEMENTS FOR ALLOCATED FEDERAL/NONFEDERAL ACTIVITY			FOR LINE 21a OF FORM 3X	
NAME OF COMMITTEE (In Full) Citizens Who Love Candy PAC				
A. Full Name (Last, First, Middle Initial) Citizens Who Love Candy State PAC			Allocated Activity or Event: <input type="checkbox"/> Administrative <input checked="" type="checkbox"/> Fundraising <input type="checkbox"/> Exempt <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support <input type="checkbox"/> Public Comm (ref to party only) by PAC	
Mailing Address 777 Chocolate Tower			Allocated Activity or Event Year-To-Date 10,000.00	
City New York NY 10000			Date 04 / 11 / 2014	
Purpose of Disbursement: Ratio Adjustment Transfer			Category/ Type	
Activity or Event Identifier: Sweeten the Pot (Event Date 2/14/14)			FEDERAL SHARE + NONFEDERAL SHARE = TOTAL AMOUNT	
1,000.00			----- 1,000.00	

Continue to Monitor Receipts. Should the committee continue to receive additional federal funds relating to this event, the committee would be required to re-estimate the allocation ratio, adjust the ratio on Schedule H2 and transfer federal funds to the nonfederal account, as appropriate.

Points to Remember: Reporting Allocated Fundraising Expenses

- **Ratio on Schedule H2**
 - Use Funds Received ratio based on estimate.
 - H2 must be filed with each report that discloses a disbursement for fundraising or direct candidate support activity on H4.
- **Payment on Schedule H4**
 - Include specific purpose.
 - Check appropriate category (fundraising).
 - Include unique code or event identifier; make sure it is the same as disclosed on H2.
- **Transfer-in of Nonfederal Share on Schedule H3**
 - Use appropriate line for type of expense.
 - Make sure totals listed for each category match up to bottom of H3.
 - Make sure unique code or event identifier is the same as disclosed on H2.
- **Debts**
 - Include contracted-for services.
 - Report on Schedule D.
- **After the Event or Program:**
 - Continue to monitor receipts and adjust ratio to reflect actual funds received.
 - Show new ratio (check revised ratio box and provide date of event).
 - Make corrective transfers within 60 days (or afterwards if more federal funds are received).
 - Report such transfers on Schedule H4 as 100% federal disbursement if federal share increases; or report transfers on Schedule H3 within 60 days if nonfederal share increases.

FEC Allocation Rules

Court of Appeals opinion in *EMILY's List*:

- ❑ Invalidated allocation rules governing:
 - Administrative expenses
 - Generic voter drives referring to candidates or parties
 - Public communications referring to candidates or parties
- ❑ Commission repealed those rules

C. *EMILY's List* Case:

1. Background

In *EMILY's List*, Court invalidated regulations at:

- a) 11 CFR 100.57 – Funds received in response to certain solicitations.
- b) 11 CFR 106.6(c) – 50% minimum federal funds percentage for administrative expenses, generic voter drives, public communications that refer to a political party, do not refer to any federal or nonfederal candidate.
- c) 11 CFR 106.6(f) – Public communications and voter drives that refer to one or more federal or nonfederal candidates on a time/space ratio.

2. Commission Rulemaking on *EMILY's List*

- a) The Commission issued a statement on January 12, 2010, stating that 11 CFR 100.57, 106.6(c) and 106.6(f) will not be enforced and therefore, nonconnected committees need not allocate administrative expenses, costs of generic voter drives, and public communications that refer to a political party, nor do they need to report these allocations on FEC Form 3X.
- b) The Commission removed the challenged regulations with Final Rules published in the March 19, 2010, *Federal Register* (75 FR 13223). Further rulemakings, as well as revisions to the reporting forms, instructions and electronic filing software may be required.

- c) Since 11 CFR 106.6(c) was removed, nonconnected committees are no longer required to pay for administrative expenses, generic voter drives and public communications that refer to a political party but not to any federal or non-federal candidates with at least 50% federal funds.
- d) Since 11 CFR 106.6(f) was removed, nonconnected committees are no longer required to pay for public communications that refer to one or more clearly identified federal candidates, but not to any clearly identified nonfederal candidates with entirely federal funds. They **may** pay these expenses with entirely federal funds or with an allocated mix of federal and nonfederal funds **in any ratio**.
- e) Committees that choose to pay for any of these expenses with an allocated mix of federal and nonfederal funds may make use of the payment options and transfer provisions at 106.6(e). If a committee chooses to do so, it must also comply with the timing and reporting provisions of that section.

Objectives

- ☒ Identify types of Nonconnected PACs and review basic characteristics
- ☒ Discuss fundraising rules
- ☐ Describe methods of supporting federal candidates
- ☐ Highlight key rules on travel and lobbyist bundling